United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 14-5146 **September Term, 2013**

1:11-cv-00477-RJL

Filed On: July 24, 2014

In re: United States of America,

Petitioner

BEFORE: Brown, Millett, and Pillard, Circuit Judges

O R D E R

Upon consideration of the petition for a writ of mandamus and emergency motion for administrative stay and the appendix, the responses and supplements thereto, and the reply, it is

ORDERED that the petition for a writ of mandamus be granted. The district court is hereby ordered to quash the subpoenas for the deposition of Secretary Vilsack. It is well-established that "top executive department officials should not, absent extraordinary circumstances, be called to testify regarding their reasons for taking official actions." Simplex Time Recorder Co. v. Secretary of Labor, 766 F.2d 575, 586 (D.C. Cir. 1985); see also Peoples v. USDA, 427 F.2d 561, 567 (D.C. Cir. 1970) ("[S]ubjecting a cabinet officer to oral deposition is not normally countenanced."). As such extraordinary circumstances are not present in this record, the district court abused its discretion by allowing the deposition of Secretary Vilsack at this stage in the proceedings. Accordingly, petitioner has shown a clear and indisputable right to relief. See Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 289 (1988). In addition, petitioner has no other adequate means of obtaining relief. See In re Cheney, 544 F.3d 311, 314 (D.C. Cir. 2008). It is

FURTHER ORDERED that the emergency motion for administrative stay be dismissed as moot.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Timothy A. Ralls
Deputy Clerk